

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

v.

CURTIS DEWIGHT NELSON

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CASE NO. 4:02CR88

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 24, 2009 to determine whether the Defendant violated his supervised release. The Defendant was represented by Denise Benson. The Government was represented by Heather Rattan.

On July 2, 2003, the Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to 78 months imprisonment followed by a 3-year term of supervised release for the offense of conspiracy to manufacture, distribute, possess, and dispense cocaine base (crack)/marijuana. Defendant began his term of supervised release on September 7, 2007. On November 20, 2006, this matter was re-assigned to the Honorable Richard A. Schell.

On June 2, 2009, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender under Supervision (Dkt. 539). The petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2)

Defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month; (3) Defendant shall notify the probation officer ten days prior to any change of residence or employment; (4) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer; and (5) Defendant shall pay a fine in the amount of \$2,000.00 payable in payments agreed to by U.S. Probation Office but not less than 10% of his gross income.

The petition alleges that Defendant committed the following violations: (1) on March 22, 2009, Defendant was arrested by Tyler Police Department for the offense of assault; (2) on May 3, 2009, Defendant was arrested by the Denison Police Department on an outstanding Grayson County warrant for the offense of evading arrest/detention with motor vehicle; (3) Defendant failed to provide a monthly report form for the months of January, February, March, and April 2009; (4) Defendant moved from his residence on Oakwood Street in Tyler on or before February 1, 2009; (5) on March 22, 2009, Defendant was arrested by the Tyler Police Department for assault and he failed to report the arrest to the U.S. Probation Office; and (6) Defendant failed to make fine payments for the months of October, November and December 2008 and January, February, March and April 2009.

At the June 24, 2009 hearing, Defendant entered a plea of true to the alleged violations set forth in paragraphs (3) - (6) above, regarding failing to report and make fine payments. Defendant entered a plea of not true as to the factual allegations set forth in paragraphs (1) & (2) above regarding his alleged commission other state or local crimes.

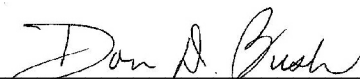
The Government declined to put on evidence as to the allegations regarding the commission of other crimes. However, the Court finds that Defendant violated the terms of his supervised release, as to the allegations to which Defendant pleaded true regarding failure to report and make fine payments. The Court recommends that Defendant's supervised release be revoked based on these violations.

At this time, Defendant has not waived his right to allocute before the district judge or his right to object to the report and recommendation of this Court.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eleven (11) months, with no supervised release to follow. The Court further recommends that Defendant carry out his term of imprisonment in the facilities located in Seagoville, Texas, if appropriate and available.

SIGNED this 25th day of June, 2009.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE